

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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RALPH STEPHEN COPPOLA; COPPOLA
ENTERPRISES, LLC; and RALPH
STEPHEN COPPOLA, trustee of the R.S.
COPPOLA TRUST DATED OCTOBER 19,
1995,

3:11-CV-00074-LRH-VPC

Plaintiffs,

ORDER

v.

DARREN K. PROULX; LAND RESOURCE
INVESTMENTS, INC.; LAND RESOURCE
MANAGEMENT, INC.; and MARINA
COMMERCIAL OFFICES, LLC,

Defendants.

Before the court is a June 8, 2011, Notice to Counsel Pursuant to Local Rule IA 10-2 (#12) requesting that Defendants' Attorney Thomas Bayard comply with completion and electronic filing of the Designation of Local Counsel and Verified Petition. On May 29, 2012, the court also entered a Minute Order (#92) requiring Attorney Bayard to show cause why all pleadings filed in this action under his name or account should not be stricken for failure to comply.

On June 8, 2012, Defendants' Attorney Ryan Kerbow filed an Affidavit in Response to Order to Show Cause (#93) representing that he had personally utilized the electronic filing account of Attorney Bayard to file the pleadings in this action and has since registered for his own electronic filing account. Attorney Bayard has neither responded to the court's show-cause order

1 nor filed the required Designation of Local Counsel and Verified Petition.

2 On June 26, 2012, plaintiff Ralph Stephen Coppola filed an affidavit (#94) representing that
3 Defendants' counsel has failed to properly serve him with any documents since he became a pro se
4 plaintiff following the withdraw of his counsel on January 11, 2012. *See* Order (#81). Coppola
5 further represents that he has become aware of Defendants' filings only through the orders of this
6 court and by looking up documents through his PACER account. Indeed, a review of the
7 Defendants' filings and certificates of service confirms that Defendants have sought to effect
8 service only through electronic filing through the court's Case Management / Electronic Case
9 Filing System (CM/ECF), despite the fact that Coppola is not a registered user of CM/ECF and as
10 such has not consented to electronic service.

11 Although Coppola is an attorney licensed to practice in California, because he appears in
12 this action only in his capacity as a party he is not subject to the requirement of attorney
13 registration. *See* Special Order 109, Electronic Filing Procedures § I-B (requiring CM/ECF
14 registration only by "[a]ttorneys who are admitted to the bar of this court, admitted to participate in
15 a case pro hac vice, or who are authorized to represent the United States and its agencies").
16 Moreover, Coppola is actually prohibited from CM/ECF registration without leave of court. *See id.*
17 § I-C ("Non-attorneys shall not register as Filing Users unless, after motion, authorized to do so by
18 the court."). Any party not registered as a CM/ECF user may not be served by electronic means
19 and instead must be served by other means in accordance with the Federal Rules of Civil Procedure
20 and this court's Local Rules. *See* LR II 5-4.

21 The court finds that Attorney Kerbow's untimely registration as a CM/ECF user and his use
22 of Attorney Bayard's CM/ECF registration was in violation of the court's rules. The court also
23 finds that Defendants' filing and service of documents solely by electronic means since the
24 withdrawal of Coppola's counsel on January 11, 2012, has been ineffective and in violation of this
25 court's Local Rules and the Federal Rules of Civil Procedure. In the absence of any prejudice from
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1 such violations, however, the court declines to strike Defendants' pleadings at this time. Continued
2 violation of this court's Local Rules and the Federal Rules of Civil Procedure by Defendants will
3 be subject to sanctions, potentially including case dispositive sanctions.

4 The court further finds that under the unique circumstances presented, including that
5 Coppola is a California attorney with a PACER registration, and in the interests of facilitating the
6 purposes served by electronic filing and avoiding further procedural irregularities in this case,
7 Coppola should be required in this matter to register for electronic service through the court's
8 CM/ECF system.

9 Accordingly, good cause appearing,

10 IT IS HEREBY ORDERED that the pleadings filed in this action under Attorney Thomas
11 Bayard's name or account shall not be stricken at this time. However, Attorney Bayard shall be
12 terminated as counsel of record in this action for non-compliance with the completion and filing of
13 a Designation of Local Counsel and Verified Petition. Continued violation of this court's Local
14 Rules and the Federal Rules of Civil Procedure by Defendants will be subject to sanctions,
15 potentially including case dispositive sanctions.

16 IT IS FURTHER ORDERED that within ten days of the entry of this order pro se plaintiff
17 Ralph Stephen Coppola shall register as a filing user for electronic service through the court's
18 CM/ECF system.

19 IT IS SO ORDERED.

20 DATED this 1st day of August, 2012.



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23 LARRY R. HICKS
UNITED STATES DISTRICT JUDGE
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